

SENATE BILL NO. 189

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/15/22

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sex trafficking; establishing the crime of patron of a victim of sex
2 trafficking; relating to the crime of human trafficking; relating to sentencing for sex
3 trafficking and patron of a victim of sex trafficking; establishing the process for a
4 vacatur of judgment for a conviction of prostitution; and providing for an effective
5 date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 04.06.110 is amended to read:

8 **Sec. 04.06.110. Peace officer powers.** The director and the persons employed
9 for the administration and enforcement of this title may, with the concurrence of the
10 commissioner of public safety, exercise the powers of peace officers when those
11 powers are specifically granted by the board. Powers granted by the board under this
12 section may be exercised only when necessary for the enforcement of the criminally
13 punishable provisions of this title, regulations of the board, and other criminally

1 punishable laws and regulations, including investigation of violations of laws against
 2 [PROSTITUTION AND] sex trafficking described in AS 11.41.340 - 11.41.347,
 3 patron of a victim of sex trafficking under AS 11.41.350, prostitution under
 4 AS 11.66.100, [AS 11.66.100 - 11.66.135] and laws against gambling, promoting
 5 gambling, and related offenses described in AS 11.66.200 - 11.66.280. Unless
 6 authorized by a search warrant described in AS 12.35, nothing in this section
 7 authorizes the use of metal keys, magnetic card keys, or identification cards to access
 8 private clubs.

9 * **Sec. 2.** AS 11.41 is amended by adding new sections to read:

10 **Sec. 11.41.340. Sex trafficking in the first degree.** (a) A person commits the
 11 crime of sex trafficking in the first degree if the person

12 (1) as other than a patron of a victim of sex trafficking, induces or
 13 causes another person to engage in commercial sexual conduct through the use of
 14 force or threat of force against any person;

15 (2) violates AS 11.41.345 and the victim is under 20 years of age;

16 (3) induces or causes a person in that person's legal custody to engage
 17 in commercial sexual conduct; or

18 (4) manages, supervises, controls, or owns, either alone or in
 19 association with others, a prostitution enterprise or a place of prostitution.

20 (b) Sex trafficking in the first degree is an unclassified felony.

21 **Sec. 11.41.345. Sex trafficking in the second degree.** (a) A person commits
 22 the crime of sex trafficking in the second degree if, as other than a patron of a victim
 23 of sex trafficking and with the intent to promote sex trafficking, the person recruits,
 24 entices, or otherwise induces or causes another person to engage in commercial sexual
 25 conduct.

26 (b) Sex trafficking in the second degree is a class A felony.

27 **Sec. 11.41.347. Sex trafficking in the third degree.** (a) A person commits the
 28 crime of sex trafficking in the third degree if, as other than a patron of a victim of sex
 29 trafficking, the person provides services, resources, or other assistance in furtherance
 30 of a violation of AS 11.41.340 or 11.41.345.

31 (b) Sex trafficking in the third degree is a class B felony if the value of the

1 services, resources, or other assistance provided is \$200 or more.

2 (c) Sex trafficking in the third degree is a class C felony if the value of the
3 services, resources, or other assistance provided is less than \$200.

4 **Sec. 11.41.350. Patron of a victim of sex trafficking.** (a) A person commits
5 the crime of being a patron of a victim of sex trafficking if, under circumstances not
6 proscribed under AS 11.41.434 - 11.41.460, the person solicits commercial sexual
7 conduct

8 (1) with reckless disregard that the person engaging in the sexual
9 conduct is a victim of sex trafficking; or

10 (2) from a person who is under 18 years of age.

11 (b) Patron of a victim of sex trafficking is a class C felony if the person
12 violates (a)(1) of this section.

13 (c) Patron of a victim of sex trafficking is a class B felony if the person
14 violates (a)(2) of this section.

15 (d) In a prosecution under (c) of this section, it is an affirmative defense that at
16 the time of the alleged offense the defendant

17 (1) reasonably believed the person to be 18 years of age or older; and

18 (2) undertook reasonable measures to verify that the person was 18
19 years of age or older.

20 * **Sec. 3.** AS 11.41.360(a) is amended to read:

21 (a) A person commits the crime of human trafficking in the first degree if,
22 under circumstances not proscribed under AS 11.41.340 - 11.41.350, the person

23 (1) [COMPELS OR] induces or causes another person to engage in
24 [SEXUAL CONDUCT,] adult entertainment [,] or labor [IN THE STATE] by force or
25 threat of force against any person; or

26 (2) violates AS 11.41.365 and the victim is under 20 years of age [,
27 OR BY DECEPTION].

28 * **Sec. 4.** AS 11.41.360(c) is amended to read:

29 (c) Human trafficking in the first degree is an unclassified [A CLASS A]
30 felony.

31 * **Sec. 5.** AS 11.41.365(a) is amended to read:

(a) A person commits the crime of human trafficking in the second degree if, under circumstances not proscribed under AS 11.41.340 - 11.41.350 and with the intent to promote human trafficking, the person recruits, entices, or otherwise induces or causes another person to engage in adult entertainment or labor by

(1) exposing or threatening to expose confidential information or a secret, whether true or false, tending to subject a person to hatred, contempt, or ridicule;

(2) destroying, concealing, or threatening to destroy or conceal an actual or purported passport or immigration document or another actual or purported identification document of any person;

(3) threatening to report a person to a government agency for the purpose of arrest or deportation;

(4) threatening to collect a debt;

(5) instilling a fear that the person will withhold from any person lodging, food, clothing, or medication;

(6) providing or withholding controlled substances from the person; or

(7) deception as defined in AS 11.81.900 [OBTAINS A BENEFIT FROM THE COMMISSION OF HUMAN TRAFFICKING UNDER AS 11.41.360, WITH RECKLESS DISREGARD THAT THE BENEFIT IS A RESULT OF THE TRAFFICKING].

* **Sec. 6.** AS 11.41.365(b) is amended to read:

(b) Human trafficking in the second degree is a class A [B] felony.

* **Sec. 7.** AS 11.41 is amended by adding new sections to read:

Sec. 11.41.366. Human trafficking in the third degree. (a) A person commits the crime of human trafficking in the third degree if the person provides services, resources, or other assistance in furtherance of a violation of AS 11.41.360 or 11.41.365.

(b) Human trafficking in the third degree is a class B felony if the value of the services, resources, or other assistance provided is \$200 or more.

(c) Human trafficking in the third degree is a class C felony if the value of the

1 services, resources, or other assistance provided is less than \$200.

2 **Sec. 11.41.367. Corroboration of certain testimony not required.** In a
3 prosecution under AS 11.41.340 - 11.41.366, it is not necessary that the testimony of
4 the person whose conduct is alleged to have been compelled or promoted be
5 corroborated by the testimony of any other witness or by documentary or other types
6 of evidence.

7 **Sec. 11.41.368. Forfeiture.** Property used to institute, aid, or facilitate, or
8 received or derived from, a violation of AS 11.41.340 - 11.41.366, including real
9 property, may be forfeited at sentencing.

10 * **Sec. 8.** AS 11.41.370 is amended by adding new paragraphs to read:

11 (4) "adult entertainment" means the conduct described in
12 AS 23.10.350(f)(1) - (3)(A) and (B);

13 (5) "commercial sexual conduct" means sexual conduct for which
14 anything of value is given or received by any person; in this paragraph, "anything of
15 value" does not include compensation for reasonably apportioned shared expenses of a
16 residence;

17 (6) "place of prostitution" means any place where another person
18 engages in commercial sexual conduct;

19 (7) "prostitution enterprise" means an arrangement in which two or
20 more persons are organized to render commercial sexual conduct;

21 (8) "services, resources, or other assistance" includes financial support,
22 business services, lodging, transportation, providing false identification documents or
23 other documentation, equipment, facilities, or any other service or property regardless
24 of whether the person is compensated; in this paragraph, "services, resources, or other
25 assistance" does not include charitable or humanitarian aid provided directly to a
26 victim of sex trafficking;

27 (9) "sexual conduct" means participating in, observing, or requiring
28 another person to observe sexual contact, sexual penetration, or the conduct described
29 in AS 11.61.140(f);

30 (10) "sexual contact" has the meaning given in AS 11.81.900;

31 (11) "sexual penetration" has the meaning given in AS 11.81.900;

(12) "victim of sex trafficking" means a person who has been induced or caused to engage in commercial sexual conduct by the conduct of another person, including

(A) force or the threat of force against any person;

(B) exposing or threatening to expose confidential information or a secret, whether true or false, tending to subject a person to hatred, contempt, or ridicule;

(C) destroying, concealing, or threatening to destroy or conceal an actual or purported passport or immigration document or another actual or purported identification document of any person;

(D) threatening to report a person to a government agency for the purpose of arrest or deportation;

(E) threatening to collect a debt;

(F) instilling a fear that the person will withhold from any person lodging, food, clothing, or medication;

(G) providing or withholding controlled substances from the person;

(H) deception as defined in AS 11.81.900; or

(I) the conduct described in AS 11.41.345.

* **Sec. 9.** AS 11.41.530(a) is amended to read:

(a) A person commits the crime of coercion if, under circumstances not proscribed under AS 11.41.340 - 11.41.366, the person compels another to engage in conduct from which there is a legal right to abstain or abstain from conduct in which there is a legal right to engage, by means of instilling in the person who is compelled a fear that, if the demand is not complied with, the person who makes the demand or another may

(1) inflict physical injury on anyone, except under circumstances constituting robbery in any degree, or commit any other crime;

(2) accuse anyone of a crime;

(3) expose confidential information or a secret, whether true or false, tending to subject a person to hatred, contempt, or ridicule or to impair the person's

1 credit or business repute;

2 (4) take or withhold action as a public servant or cause a public servant
3 to take or withhold action;

4 (5) bring about or continue a strike, boycott, or other collective
5 unofficial action, if the property is not demanded or received for the benefit of the
6 group in whose interest the person making the threat or suggestion purports to act;

7 (6) testify or provide information or withhold testimony or information
8 with respect to a person's legal claim or defense.

9 * **Sec. 10.** AS 11.66.100(c) is amended to read:

10 (c) A person may not be prosecuted under (a)(1) of this section if the

11 (1) person witnessed or was a victim of, and reported to law
12 enforcement in good faith, one or more of the following crimes:

13 (A) murder in the first degree under AS 11.41.100;

14 (B) murder in the second degree under AS 11.41.110;

15 (C) manslaughter under AS 11.41.120;

16 (D) criminally negligent homicide under AS 11.41.130;

17 (E) assault in the first degree under AS 11.41.200;

18 (F) assault in the second degree under AS 11.41.210;

19 (G) assault in the third degree under AS 11.41.220;

20 (H) assault in the fourth degree under AS 11.41.230;

21 (I) sexual assault in the first degree under AS 11.41.410;

22 (J) sexual assault in the second degree under AS 11.41.420;

23 (K) sexual assault in the third degree under AS 11.41.425;

24 (L) sexual assault in the fourth degree under AS 11.41.427;

25 (M) sexual abuse of a minor in the first degree under
26 AS 11.41.434;

27 (N) sexual abuse of a minor in the second degree under
28 AS 11.41.436;

29 (O) sexual abuse of a minor in the third degree under
30 AS 11.41.438;

31 (P) sexual abuse of a minor in the fourth degree under

AS 11.41.440;

(Q) robbery in the first degree under AS 11.41.500;

(R) robbery in the second degree under AS 11.41.510;

(S) extortion under AS 11.41.520;

(T) coercion under AS 11.41.530;

(U) distribution of child pornography under AS 11.61.125;

(V) possession of child pornography under AS 11.61.127;

(W) sex trafficking in the first degree under AS 11.41.340

[AS 11.66.110];

(X) sex trafficking in the second degree under AS 11.41.345

[AS 11.66.120];

(Y) sex trafficking in the third degree under AS 11.41.347

[AS 11.66.130]; or

(Z) sex trafficking in the fourth degree under AS 11.66.135;

(2) evidence supporting the prosecution under (a)(1) of this section was obtained or discovered as a result of the person reporting the crime to law enforcement; and

(3) person cooperated with law enforcement personnel.

* **Sec. 11.** AS 11.66.100(d) is amended to read:

(d) **Prostitution** [EXCEPT AS PROVIDED IN (e) OF THIS SECTION, PROSTITUTION] is a

(1) class B misdemeanor if the person violates (a)(1) of this section;

(2) class A misdemeanor if the person violates (a)(2) of this section;

(3) a class C felony if the person violates (a)(2) of this section and, within the preceding five years, the person has been convicted on two or more separate occasions in this or another jurisdiction of an offense under (a)(2) of this section or under another law or ordinance with similar elements.

* **Sec. 12.** AS 11.66.100 is amended by adding new subsections to read:

(f) Upon conviction under (d)(3) of this section, any property used to institute, aid, or facilitate a violation of (d)(3) of this section may be forfeited.

(g) In this section, "sexual conduct" has the meaning given in AS 11.41.370.

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2 * **Sec. 13.** AS 11.81.250(a) is amended to read:

3 (a) For purposes of sentencing under AS 12.55, all offenses defined in this
4 title, except murder in the first and second degree, attempted murder in the first
5 degree, solicitation to commit murder in the first degree, conspiracy to commit murder
6 in the first degree, murder of an unborn child, **sex trafficking in the first degree**
7 **under AS 11.41.340, human trafficking in the first degree under AS 11.41.360,**
8 sexual assault in the first degree, sexual abuse of a minor in the first degree,
9 misconduct involving a controlled substance in the first degree, [SEX TRAFFICKING
10 IN THE FIRST DEGREE UNDER AS 11.66.110(a)(2),] and kidnapping, are
11 classified on the basis of their seriousness, according to the type of injury
12 characteristically caused or risked by commission of the offense and the culpability of
13 the offender. Except for murder in the first and second degree, attempted murder in the
14 first degree, solicitation to commit murder in the first degree, conspiracy to commit
15 murder in the first degree, murder of an unborn child, **sex trafficking in the first**
16 **degree under AS 11.41.340, human trafficking in the first degree under**
17 **AS 11.41.360,** sexual assault in the first degree, sexual abuse of a minor in the first
18 degree, misconduct involving a controlled substance in the first degree, [SEX
19 TRAFFICKING IN THE FIRST DEGREE UNDER AS 11.66.110(a)(2),] and
20 kidnapping, the offenses in this title are classified into the following categories:

21 (1) class A felonies, which characteristically involve conduct resulting
22 in serious physical injury or a substantial risk of serious physical injury to a person;

23 (2) class B felonies, which characteristically involve conduct resulting
24 in less severe violence against a person than class A felonies, aggravated offenses
25 against property interests, or aggravated offenses against public administration or
26 order;

27 (3) class C felonies, which characteristically involve conduct serious
28 enough to deserve felony classification but not serious enough to be classified as A or
29 B felonies;

30 (4) class A misdemeanors, which characteristically involve less severe
31 violence against a person, less serious offenses against property interests, less serious

1 offenses against public administration or order, or less serious offenses against public
2 health and decency than felonies;

3 (5) class B misdemeanors, which characteristically involve a minor
4 risk of physical injury to a person, minor offenses against property interests, minor
5 offenses against public administration or order, or minor offenses against public health
6 and decency;

7 (6) violations, which characteristically involve conduct inappropriate
8 to an orderly society but which do not denote criminality in their commission.

9 * **Sec. 14.** AS 11.81.250(b) is amended to read:

10 (b) The classification of each felony defined in this title, except murder in the
11 first and second degree, attempted murder in the first degree, solicitation to commit
12 murder in the first degree, conspiracy to commit murder in the first degree, murder of
13 an unborn child, sex trafficking in the first degree under AS 11.41.340, human
14 trafficking in the first degree under AS 11.41.360, sexual assault in the first degree,
15 sexual abuse of a minor in the first degree, misconduct involving a controlled
16 substance in the first degree, [SEX TRAFFICKING IN THE FIRST DEGREE
17 UNDER AS 11.66.110(a)(2),] and kidnapping, is designated in the section defining it.
18 A felony under the law of this state defined outside this title for which no penalty is
19 specifically provided is a class C felony.

20 * **Sec. 15.** AS 12.10.010(a) is amended to read:

21 (a) Prosecution for the following offenses may be commenced at any time:

22 (1) murder;

23 (2) attempt, solicitation, or conspiracy to commit murder or hindering
24 the prosecution of murder;

25 (3) felony sexual abuse of a minor;

26 (4) sexual assault that is an unclassified, class A, or class B felony or a
27 violation of AS 11.41.425(a)(2) - (4);

28 (5) a violation of AS 11.41.425, 11.41.427, 11.41.450 - 11.41.458,
29 [AS 11.66.110 - 11.66.130,] or former AS 11.41.430, when committed against a
30 person who, at the time of the offense, was under 18 years of age;

31 (6) kidnapping;

(7) distribution of child pornography in violation of AS 11.61.125;

(8) sex trafficking in violation of AS 11.41.340 and 11.41.345 [AS 11.66.110 - 11.66.130 THAT IS AN UNCLASSIFIED, CLASS A, OR CLASS B FELONY OR THAT IS COMMITTED AGAINST A PERSON WHO, AT THE TIME OF THE OFFENSE, WAS UNDER 20 YEARS OF AGE];

(9) human trafficking in violation of AS 11.41.360 and 11.41.365 [AS 11.41.360 OR 11.41.365].

* **Sec. 16.** AS 12.37.010 is amended to read:

Sec. 12.37.010. Authorization to intercept communications. The attorney general, or a person designated in writing or by law to act for the attorney general, may authorize, in writing, an ex parte application to a court of competent jurisdiction for an order authorizing the interception of a private communication if the interception may provide evidence of, or may assist in the apprehension of persons who have committed, are committing, or are planning to commit, the following offenses:

(1) murder in the first or second degree under AS 11.41.100 - 11.41.110;

(2) kidnapping under AS 11.41.300;

(3) a class A or unclassified felony drug offense under AS 11.71;

(4) sex trafficking [IN THE FIRST OR SECOND DEGREE] under AS 11.41.340 and 11.41.345 [AS 11.66.110 AND 11.66.120]; or

(5) human trafficking [IN THE FIRST DEGREE] under AS 11.41.360 and 11.41.365.

* **Sec. 17.** AS 12.55.035(b) is amended to read:

(b) Upon conviction of an offense, a defendant who is not an organization may be sentenced to pay, unless otherwise specified in the provision of law defining the offense, a fine of not more than

(1) \$500,000 for murder in the first or second degree, attempted murder in the first degree, murder of an unborn child, sex trafficking in the first degree under AS 11.41.340, human trafficking in the first degree under AS 11.41.360, sexual assault in the first degree, sexual abuse of a minor in the first degree, kidnapping, [SEX TRAFFICKING IN THE FIRST DEGREE UNDER

AS 11.66.110(a)(2),] or misconduct involving a controlled substance in the first degree;

- (2) \$250,000 for a class A felony;
- (3) \$100,000 for a class B felony;
- (4) \$50,000 for a class C felony;
- (5) \$25,000 for a class A misdemeanor;
- (6) \$2,000 for a class B misdemeanor;
- (7) \$500 for a violation.

* **Sec. 18.** AS 12.55.078(f) is amended to read:

(f) The court may not suspend the imposition or entry of judgment and may not defer prosecution under this section of a person who

(1) is charged with a violation of AS 11.41.100 - 11.41.220, 11.41.260 - 11.41.320, **11.41.340 - 11.41.370** [11.41.360 - 11.41.370], 11.41.410 - 11.41.530, AS 11.46.400, **or** AS 11.61.125 - 11.61.128 [, OR AS 11.66.110 - 11.66.135];

(2) uses a firearm in the commission of the offense for which the person is charged;

(3) has previously been granted a suspension of judgment under this section or a similar statute in another jurisdiction, unless the court enters written findings that by clear and convincing evidence the person's prospects for rehabilitation are high and suspending judgment under this section adequately protects the victim of the offense, if any, and the community;

(4) is charged with a violation of AS 11.41.230, 11.41.250, or a felony and the person has one or more prior convictions for a misdemeanor violation of AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction having similar elements to an offense defined as a misdemeanor in AS 11.41 or as a felony in this state; for the purposes of this paragraph, a person shall be considered to have a prior conviction even if

(A) the charges were dismissed under this section;

(B) the conviction has been set aside under AS 12.55.085; or

(C) the charge or conviction was dismissed or set aside under an equivalent provision of the laws of another jurisdiction; or

(5) is charged with a crime involving domestic violence, as defined in AS 18.66.990.

* **Sec. 19.** AS 12.55.085(f) is amended to read:

(f) The court may not suspend the imposition of sentence of a person who

(1) is convicted of a violation of AS 11.41.100 - 11.41.220, 11.41.260 - 11.41.320, **11.41.340 - 11.41.370** [11.41.360 - 11.41.370], 11.41.410 - 11.41.530, AS 11.46.400, **or** AS 11.61.125 - 11.61.128 [, OR AS 11.66.110 - 11.66.135];

(2) uses a firearm in the commission of the offense for which the person is convicted; or

(3) is convicted of a violation of AS 11.41.230 - 11.41.250 or a felony and the person has one or more prior convictions for a misdemeanor violation of AS 11.41 or for a felony or for a violation of a law in this or another jurisdiction having similar elements to an offense defined as a misdemeanor in AS 11.41 or as a felony in this state; for the purposes of this paragraph, a person shall be considered to have a prior conviction even if that conviction has been set aside under (e) of this section or under the equivalent provision of the laws of another jurisdiction.

* **Sec. 20.** AS 12.55.125(b) is amended to read:

(b) A defendant convicted of attempted murder in the first degree, solicitation to commit murder in the first degree, conspiracy to commit murder in the first degree, kidnapping, **human trafficking in the first degree**, or misconduct involving a controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years. A defendant convicted of murder in the second degree or murder of an unborn child under AS 11.41.150(a)(2) - (4) shall be sentenced to a definite term of imprisonment of at least 15 years but not more than 99 years. A defendant convicted of murder in the second degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years when the defendant is convicted of the murder of a child under 16 years of age and the court finds by clear and convincing evidence that the defendant (1) was a natural parent, a stepparent, an adoptive parent, a legal guardian, or a person occupying a position of authority in relation to the child; or (2) caused the death of the child by committing a crime against a person under

AS 11.41.200 - 11.41.530. In this subsection, "legal guardian" and "position of authority" have the meanings given in AS 11.41.470.

* **Sec. 21.** AS 12.55.125(i) is amended to read:

(i) A defendant convicted of

(1) sexual assault in the first degree, sex trafficking in the first degree, sexual abuse of a minor in the first degree, or unlawful exploitation of a minor under AS 11.41.455(c)(2) [, OR SEX TRAFFICKING IN THE FIRST DEGREE UNDER AS 11.66.110(a)(2)] may be sentenced to a definite term of imprisonment of not more than 99 years and shall be sentenced to a definite term within the following presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(A) if the offense is a first felony conviction, the offense does not involve circumstances described in (B) of this paragraph, and the victim was

(i) less than 13 years of age, 25 to 35 years;

(ii) 13 years of age or older, 20 to 30 years;

(B) if the offense is a first felony conviction and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 25 to 35 years;

(C) if the offense is a second felony conviction and does not involve circumstances described in (D) of this paragraph, 30 to 40 years;

(D) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 35 to 45 years;

(E) if the offense is a third felony conviction and the defendant is not subject to sentencing under (F) of this paragraph or (I) of this section, 40 to 60 years;

(F) if the offense is a third felony conviction, the defendant is not subject to sentencing under (I) of this section, and the defendant has two prior convictions for sexual felonies, 99 years;

(2) unlawful exploitation of a minor under AS 11.41.455(c)(1), enticement of a minor under AS 11.41.452(e), sex trafficking in the second degree, or attempt, conspiracy, or solicitation to commit sexual assault in the first degree, sex

1 trafficking in the first degree, sexual abuse of a minor in the first degree, or
 2 unlawful exploitation of a minor under AS 11.41.455(c)(2) [OR SEX
 3 TRAFFICKING IN THE FIRST DEGREE UNDER AS 11.66.110(a)(2)] may be
 4 sentenced to a definite term of imprisonment of not more than 99 years and shall be
 5 sentenced to a definite term within the following presumptive ranges, subject to
 6 adjustment as provided in AS 12.55.155 - 12.55.175:

7 (A) if the offense is a first felony conviction, the offense does
 8 not involve circumstances described in (B) of this paragraph, and the victim
 9 was

10 (i) under 13 years of age, 20 to 30 years;

11 (ii) 13 years of age or older, 15 to 30 years;

12 (B) if the offense is a first felony conviction and the defendant
 13 possessed a firearm, used a dangerous instrument, or caused serious physical
 14 injury during the commission of the offense, 25 to 35 years;

15 (C) if the offense is a second felony conviction and does not
 16 involve circumstances described in (D) of this paragraph, 25 to 35 years;

17 (D) if the offense is a second felony conviction and the
 18 defendant has a prior conviction for a sexual felony, 30 to 40 years;

19 (E) if the offense is a third felony conviction, the offense does
 20 not involve circumstances described in (F) of this paragraph, and the defendant
 21 is not subject to sentencing under (I) of this section, 35 to 50 years;

22 (F) if the offense is a third felony conviction, the defendant is
 23 not subject to sentencing under (I) of this section, and the defendant has two
 24 prior convictions for sexual felonies, 99 years;

25 (3) sexual assault in the second degree, sex trafficking in the third
 26 degree under AS 11.41.347(b), patron of a victim of sex trafficking under
 27 AS 11.41.350(c), sexual abuse of a minor in the second degree, enticement of a minor
 28 under AS 11.41.452(d), indecent exposure in the first degree under
 29 AS 11.41.458(b)(2), [OR] distribution of child pornography under
 30 AS 11.61.125(e)(2), or attempt, conspiracy, or solicitation to commit sex
 31 trafficking in the second degree or unlawful exploitation of a minor under

1 **AS 11.41.455(c)(1)** may be sentenced to a definite term of imprisonment of not more
 2 than 99 years and shall be sentenced to a definite term within the following
 3 presumptive ranges, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

4 (A) if the offense is a first felony conviction, five to 15 years;

5 (B) if the offense is a second felony conviction and does not
 6 involve circumstances described in (C) of this paragraph, 10 to 25 years;

7 (C) if the offense is a second felony conviction and the
 8 defendant has a prior conviction for a sexual felony, 15 to 30 years;

9 (D) if the offense is a third felony conviction and does not
 10 involve circumstances described in (E) of this paragraph, 20 to 35 years;

11 (E) if the offense is a third felony conviction and the defendant
 12 has two prior convictions for sexual felonies, 99 years;

13 (4) sexual assault in the third degree, **sex trafficking in the third**
 14 **degree under AS 11.41.347(c), patron of a victim of sex trafficking under**
 15 **AS 11.41.350(b),** sexual abuse of a minor in the third degree under AS 11.41.438(c),
 16 incest, indecent exposure in the first degree under AS 11.41.458(b)(1), indecent
 17 viewing or production of a picture under **AS 11.61.123(g)(1) or (2)**
 18 [AS 11.61.123(f)(1) OR (2),] possession of child pornography, distribution of child
 19 pornography under AS 11.61.125(e)(1), or attempt, conspiracy, or solicitation to
 20 commit sexual assault in the second degree, **sex trafficking in the third degree**
 21 **under AS 11.41.347(b), patron of a victim of sex trafficking under**
 22 **AS 11.41.350(c),** sexual abuse of a minor in the second degree, [UNLAWFUL
 23 EXPLOITATION OF A MINOR, OR] distribution of child pornography may be
 24 sentenced to a definite term of imprisonment of not more than 99 years and shall be
 25 sentenced to a definite term within the following presumptive ranges, subject to
 26 adjustment as provided in AS 12.55.155 - 12.55.175:

27 (A) if the offense is a first felony conviction and does not
 28 involve the circumstances described in (B) or (C) of this paragraph, two to 12
 29 years;

30 (B) if the offense is a first felony conviction under
 31 AS 11.61.125(e)(1) and does not involve circumstances described in (C) of this

paragraph, four to 12 years;

(C) if the offense is a first felony conviction under AS 11.61.125(e)(1), and the defendant hosted, created, or helped host or create a mechanism for multi-party sharing or distribution of child pornography, or received a financial benefit or had a financial interest in a child pornography sharing or distribution mechanism, six to 14 years;

(D) if the offense is a second felony conviction and does not involve circumstances described in (E) of this paragraph, eight to 15 years;

(E) if the offense is a second felony conviction and the defendant has a prior conviction for a sexual felony, 12 to 20 years;

(F) if the offense is a third felony conviction and does not involve circumstances described in (G) of this paragraph, 15 to 25 years;

(G) if the offense is a third felony conviction and the defendant has two prior convictions for sexual felonies, 99 years.

*** Sec. 22.** AS 12.55.135 is amended by adding a new subsection to read:

(q) A defendant convicted under AS 11.66.100(a)(2) shall be sentenced to a minimum term of imprisonment of

(1) 72 hours if the defendant has been previously convicted once in this or another jurisdiction of an offense under AS 11.66.100(a)(2) or under another law or ordinance with similar elements;

(2) 20 days if the defendant has been previously convicted two or more times in this or another jurisdiction of an offense under AS 11.66.100(a)(2) or under another law or ordinance with similar elements and is not subject to punishment under AS 11.66.100(d)(3).

*** Sec. 23.** AS 12.55.185(10) is amended to read:

(10) "most serious felony" means

(A) arson in the first degree, [SEX TRAFFICKING IN THE FIRST DEGREE UNDER AS 11.66.110(a)(2),] enticement of a minor under AS 11.41.452(e), or any unclassified or class A felony prescribed under AS 11.41; or

(B) an attempt, or conspiracy to commit, or criminal

1 solicitation under AS 11.31.110 of, an unclassified felony prescribed under
2 AS 11.41;

3 * **Sec. 24.** AS 12.55.185(16) is amended to read:

4 (16) "sexual felony" means sexual assault in the first degree, sexual
5 abuse of a minor in the first degree, sex trafficking in the first degree, sexual assault in
6 the second degree, sexual abuse of a minor in the second degree, **sex trafficking in**
7 **the second degree**, sexual abuse of a minor in the third degree under AS 11.41.438(c),
8 **sex trafficking in the third degree**, unlawful exploitation of a minor, indecent
9 viewing or production of a picture under **AS 11.61.123(g)(1) or (2)**
10 **[AS 11.61.123(f)(1) OR (2)], patron of a victim of sex trafficking, distribution of**
11 **indecent material to minors**, distribution of child pornography, sexual assault in the
12 third degree, incest, indecent exposure in the first degree, possession of child
13 pornography, enticement of a minor, and felony attempt, conspiracy, or solicitation to
14 commit those crimes;

15 * **Sec. 25.** AS 12.62.900(23) is amended to read:

16 (23) "serious offense" means a conviction for a violation or for an
17 attempt, solicitation, or conspiracy to commit a violation of any of the following laws,
18 or of the laws of another jurisdiction with substantially similar elements:

- 19 (A) a felony offense;
- 20 (B) a crime involving domestic violence;
- 21 (C) AS 11.41.410 - 11.41.470;
- 22 (D) AS 11.51.130 or 11.51.200 - 11.56.210;
- 23 (E) AS 11.61.110(a)(7) or 11.61.125;
- 24 (F) [AS 11.66.100 - 11.66.130;
- 25 (G)] former AS 11.15.120, former 11.15.134, or assault with
26 the intent to commit rape under former AS 11.15.160; or
- 27 **(G)** [(H)] former AS 11.40.080, 11.40.110, 11.40.130, or
28 11.40.200 - 11.40.420, if committed before January 1, 1980.

29 * **Sec. 26.** AS 12.63.100(7) is amended to read:

30 (7) "sex offense" means

- 31 (A) a crime under AS 11.41.100(a)(3), or a similar law of

another jurisdiction, in which the person committed or attempted to commit a sexual offense, or a similar offense under the laws of the other jurisdiction; in this subparagraph, "sexual offense" has the meaning given in AS 11.41.100(a)(3);

(B) a crime under AS 11.41.110(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit one of the following crimes, or a similar law of another jurisdiction:

(i) sexual assault in the first degree;

(ii) sexual assault in the second degree;

(iii) sexual abuse of a minor in the first degree; or

(iv) sexual abuse of a minor in the second degree;

(C) a crime, or an attempt, solicitation, or conspiracy to commit a crime, under the following statutes or a similar law of another jurisdiction:

(i) AS 11.41.410 - 11.41.438;

(ii) AS 11.41.440(a)(2);

(iii) AS 11.41.450 - 11.41.458;

(iv) AS 11.41.460 or AS 26.05.900(c) if the indecent exposure is before a person under 16 years of age and the offender has previously been convicted under AS 11.41.460 or AS 26.05.900(c);

(v) AS 11.61.125 - 11.61.128;

(vi) [AS 11.66.110, 11.66.130(a)(2)(B), OR] AS 26.05.900(b) if the person who was induced or caused to engage in prostitution was under 20 years of age at the time of the offense;

(vii) former AS 11.15.120, former 11.15.134, or assault with the intent to commit rape under former AS 11.15.160, former AS 11.40.110, or former 11.40.200;

(viii) AS 11.61.118(a)(2) if the offender has a previous conviction for that offense;

(ix) [AS 11.66.100(a)(2) IF THE OFFENDER IS SUBJECT TO PUNISHMENT UNDER AS 11.66.100(e);

(x)] AS 26.05.890 if the person engaged in sexual

1 penetration or sexual contact with the victim;

2 (x) [(xi)] AS 26.05.890 if, at the time of the offense, the
3 victim is under a duty to obey the lawful orders of the offender,
4 regardless of whether the offender is in the direct chain of command
5 over the victim;

6 (xi) [(xii)] AS 26.05.893 if the person engaged in sexual
7 penetration or sexual contact with the victim;

8 (xii) [(xiii)] AS 26.05.900(a)(1) - (4) if the victim is
9 under 18 years of age at the time of the offense;

10 (xiii) [(xiv)] AS 26.05.900 if, at the time of the offense,
11 the victim is under a duty to obey the lawful orders of the offender,
12 regardless of whether the offender is in the direct chain of command
13 over the victim; or

14 (xiv) [(xv)] AS 11.61.123 if the offender is subject to
15 punishment under AS 11.61.123(g)(1) or (2);

16 (xv) AS 11.41.340 and 11.41.345;

17 (xvi) AS 11.41.350 [AS 11.61.123(f)(1) OR (2);]

18 (D) an offense, or an attempt, solicitation, or conspiracy to
19 commit an offense, under AS 26.05.935(b), or a similar law of another
20 jurisdiction, if the member of the militia commits one of the following
21 enumerated offenses punishable under Article 134, 10 U.S.C. 934 (Uniform
22 Code of Military Justice):

23 (i) child pornography; or

24 (ii) pandering and prostitution if the person who is
25 induced, enticed, caused, or procured to engage in a sexual act is under
26 20 years of age at the time of the offense; or

27 (E) an offense in which the person is required to register as a
28 sex offender under the laws of another jurisdiction;

29 * **Sec. 27.** AS 12 is amended by adding a new chapter to read:

30 **Chapter 74. Vacatur of Judgment.**

31 **Sec. 12.74.010. Vacatur of judgment of conviction for prostitution. A**

1 person convicted or adjudicated delinquent for prostitution under AS 11.66.100(a)(1)
 2 or a similar ordinance of a municipality may petition the court to vacate the judgment
 3 if, at the time of the offense, the person was or would have been a victim of sex
 4 trafficking under AS 11.41.340 or 11.41.345.

5 **Sec. 12.74.020. Filing of petition for a vacatur of judgment of conviction**
 6 **for prostitution.** (a) A petition under this chapter must be filed with the clerk at the
 7 court location where the underlying criminal case was filed and a copy must be served
 8 on the prosecuting authority responsible for obtaining the conviction.

9 (b) The prosecuting authority shall file a response within 45 days after service
 10 of the petition.

11 **Sec. 12.74.030. Limitations on petitions for a vacatur of judgment.** A
 12 petition under this chapter may not be filed until a judgment has been entered or, if the
 13 conviction was appealed, until the court's decision is final under the Alaska Rules of
 14 Appellate Procedure.

15 **Sec. 12.74.040. Presumption and burden of proof in vacatur of judgment**
 16 **proceedings.** (a) The person petitioning the court for a vacatur of judgment of
 17 conviction or adjudication of delinquency for prostitution under AS 11.66.100(a)(1)
 18 must prove all factual assertions by a preponderance of the evidence.

19 (b) There is rebuttable presumption that a person who was under 18 years of
 20 age at the time of the offense was or would have been a victim of sex trafficking.

21 **Sec. 12.74.050. Vacatur of judgment.** If the court grants the petition for a
 22 vacatur of judgment,

23 (1) the judgment of conviction or adjudication of delinquency for
 24 prostitution under AS 11.66.100(a)(1) or a similar ordinance of a municipality shall be
 25 vacated;

26 (2) the Alaska Court System may not publish on a publicly available
 27 Internet website the court records of the conviction for prostitution under
 28 AS 11.66.100(a)(1) or a similar ordinance of a municipality; and

29 (3) the Department of Public Safety may not release information
 30 related to the conviction for prostitution under AS 11.66.100(a)(1) or a similar
 31 ordinance of a municipality in response to a request under AS 12.62.160(b)(6), (8), or

1 (9).

2 * **Sec. 28.** AS 18.67.101 is amended to read:

3 **Sec. 18.67.101. Incidents and offenses to which this chapter applies.** The
4 board may order the payment of compensation in accordance with the provisions of
5 this chapter for personal injury or death that resulted from

6 (1) an attempt on the part of the applicant to prevent the commission of
7 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
8 officer to do so, or aiding a victim of crime; [OR]

9 (2) the commission or attempt on the part of one other than the
10 applicant to commit any of the following offenses:

11 (A) murder in any degree;

12 (B) manslaughter;

13 (C) criminally negligent homicide;

14 (D) assault in any degree;

15 (E) kidnapping;

16 (F) sexual assault in any degree;

17 (G) sexual abuse of a minor;

18 (H) robbery in any degree;

19 (I) threats to do bodily harm;

20 (J) driving while under the influence of an alcoholic beverage,
21 inhalant, or controlled substance or another crime resulting from the operation
22 of a motor vehicle, boat, or airplane when the offender is under the influence
23 of an alcoholic beverage, inhalant, or controlled substance;

24 (K) arson in the first degree;

25 (L) [SEX TRAFFICKING IN VIOLATION OF AS 11.66.110
26 OR 11.66.130(a)(2)(B);

27 (M)] human trafficking in any degree; or

28 (M) [(N)] unlawful exploitation of a minor; or

29 (3) the applicant being a victim of sex trafficking under
30 AS 11.41.370(12)(A) - (H).

31 * **Sec. 29.** AS 28.15.046(c) is amended to read:

1 (c) The department may not issue a license under this section to an applicant

2 (1) who has been convicted of any of the following offenses:

3 (A) a violation, or an attempt, solicitation, or conspiracy to
 4 commit a violation, of AS 11.41.100 - 11.41.220, 11.41.260 - 11.41.320,
 5 11.41.340 - 11.41.370 [11.41.360 - 11.41.370], 11.41.410 - 11.41.470, or
 6 11.41.500 - 11.41.530;

7 (B) a felony violation of endangering the welfare of a child in
 8 the first degree under AS 11.51.100;

9 (C) felony indecent viewing or production of a picture under
 10 AS 11.61.123;

11 (D) distribution of child pornography under AS 11.61.125;

12 (E) possession of child pornography under AS 11.61.127;

13 (F) distribution of indecent material to minors under
 14 AS 11.61.128;

15 (G) [FELONY PROSTITUTION UNDER AS 11.66.100(e);

16 (H) SEX TRAFFICKING IN THE FIRST, SECOND, OR
 17 THIRD DEGREE UNDER AS 11.66.110 - 11.66.130;

18 (I) a felony involving distribution of a controlled substance
 19 under AS 11.71 or imitation controlled substance under AS 11.73;

20 (H) [(J)] a felony violation under AS 28.35.030(n) or
 21 28.35.032(p); or

22 (2) who has been convicted of any of the following offenses and less
 23 than two years have elapsed since the applicant's date of conviction for the offense:

24 (A) assault in the fourth degree under AS 11.41.230;

25 (B) reckless endangerment under AS 11.41.250;

26 (C) contributing to the delinquency of a minor under
 27 AS 11.51.130;

28 (D) misdemeanor prostitution under AS 11.66.100(a)(2);

29 (E) a misdemeanor violation of endangering the welfare of a
 30 child in the first degree under AS 11.51.100.

31 * **Sec. 30.** AS 34.03.360(10) is amended to read:

(10) "illegal activity involving a place of prostitution" means a violation of AS 11.41.340 - 11.41.347 [AS 11.66.120(a)(1) OR 11.66.130(a)(2)(A) OR (D)];

* **Sec. 31.** AS 43.23.005 is amended by adding a new section to read:

(i) The provisions of (d) of this section do not apply if an individual's conviction or adjudication of delinquency was vacated during the qualifying year under AS 12.74. If an individual becomes eligible under this subsection, the individual is eligible to receive a permanent fund dividend only for the qualifying year in which the conviction was vacated and each subsequent qualifying year that the individual is otherwise eligible under this section.

* **Sec. 32.** AS 47.10.990(33) is amended to read:

(33) "sexual abuse" means the conduct described in AS 11.41.410 - 11.41.460; conduct constituting "sexual exploitation" as defined in AS 47.17.290, and conduct prohibited by AS 11.41.340 - 11.41.350 [AS 11.66.100 - 11.66.150];

* **Sec. 33.** AS 47.12.110(d) is amended to read:

(d) Notwithstanding (a) of this section, a court hearing on a petition seeking the adjudication of a minor as a delinquent shall be open to the public, except as prohibited or limited by order of the court, if

(1) the department files with the court a motion asking the court to open the hearing to the public, and the petition seeking adjudication of the minor as a delinquent is based on

(A) the minor's alleged commission of an offense, and the minor has knowingly failed to comply with all the terms and conditions required of the minor by the department or imposed on the minor in a court order entered under AS 47.12.040(a)(2) or 47.12.120;

(B) the minor's alleged commission of

(i) a crime against a person that is punishable as a felony;

(ii) a crime in which the minor employed a deadly weapon, as that term is defined in AS 11.81.900(b), in committing the crime;

(iii) arson under AS 11.46.400 - 11.46.410;

(iv) burglary under AS 11.46.300;

(v) distribution of child pornography under AS 11.61.125;

(vi) sex trafficking [IN THE FIRST DEGREE] under AS 11.41.340 and 11.41.345 [AS 11.66.110]; or

(vii) misconduct involving a controlled substance under AS 11.71 involving the delivery of a controlled substance or the possession of a controlled substance with intent to deliver, other than an offense under AS 11.71.040 or 11.71.050; or

(C) the minor's alleged commission of a felony and the minor was 16 years of age or older at the time of commission of the offense when the minor has previously been convicted or adjudicated a delinquent minor based on the minor's commission of an offense that is a felony; or

(2) the minor agrees to a public hearing on the petition seeking adjudication of the minor as a delinquent.

* **Sec. 34.** AS 47.12.315(a) is amended to read:

(a) Notwithstanding AS 47.12.310 and except as otherwise provided in this section, the department shall disclose information to the public, on request, concerning a minor subject to this chapter who was at least 13 years of age at the time of commission of

(1) a felony offense against a person under AS 11.41;

(2) arson in the first or second degree;

(3) burglary in the first degree;

(4) distribution of child pornography;

(5) sex trafficking under AS 11.41.340 and 11.41.345 [IN THE FIRST DEGREE];

(6) misconduct involving a controlled substance in the first, second, or third degrees involving distribution or possession with intent to deliver; or

(7) misconduct involving weapons in the first through fourth degrees.

* **Sec. 35.** AS 47.17.290(18) is amended to read:

(18) "sexual exploitation" includes

(A) allowing, permitting, or encouraging a child to engage in **commercial sexual conduct prohibited by AS 11.41.340 - 11.41.350 or prostitution prohibited by AS 11.66.100** [AS 11.66.100 - 11.66.150], by a person responsible for the child's welfare;

(B) allowing, permitting, encouraging, or engaging in activity prohibited by AS 11.41.455(a), by a person responsible for the child's welfare.

* **Sec. 36.** AS 11.31.120(h)(2)(E), 11.31.120(h)(2)(F); AS 11.41.360(b); AS 11.66.100(b), 11.66.100(c)(1)(Z), 11.66.100(e), 11.66.110, 11.66.120, 11.66.130, 11.66.135, 11.66.140, 11.66.145, and 11.66.150 are repealed.

* **Sec. 37.** The uncoded law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) The following sections apply to offenses committed on or after the effective date of those sections:

- (1) AS 11.41.340 - 11.41.350, enacted by sec. 2 of this Act;
- (2) AS 11.41.360(a), as amended by sec. 3 of this Act;
- (3) AS 11.41.360(c), as amended by sec. 4 of this Act;
- (4) AS 11.41.365(a), as amended by sec. 5 of this Act;
- (5) AS 11.41.365(b), as amended by sec. 6 of this Act;
- (6) AS 11.41.366 - 11.41.368, enacted by sec. 7 of this Act;
- (7) AS 11.41.370(4) - (12), enacted by sec. 8 of this Act;
- (8) AS 11.41.530(a), as amended by sec. 9 of this Act;
- (9) AS 11.66.100(c), as amended by sec. 10 of this Act;
- (10) AS 11.66.100(d), as amended by sec. 11 of this Act;
- (11) AS 11.66.100(f) and (g), enacted by sec. 12 of this Act;
- (12) AS 11.81.250(a), as amended by sec. 13 of this Act;
- (13) AS 11.81.250(b), as amended by sec. 14 of this Act;
- (14) AS 12.10.010(a), as amended by sec. 15 of this Act;
- (15) AS 12.37.010, as amended by sec. 16 of this Act.

(b) The following sections apply to sentences imposed on or after the effective date of those sections for conduct occurring on or after the effective date of those sections:

- 1 (1) AS 12.55.035(b), as amended by sec. 17 of this Act;
- 2 (2) AS 12.55.078(f), as amended by sec. 18 of this Act;
- 3 (3) AS 12.55.085(f), as amended by sec. 19 of this Act;
- 4 (4) AS 12.55.125(b), as amended by sec. 20 of this Act;
- 5 (5) AS 12.55.125(i), as amended by sec. 21 of this Act;
- 6 (6) AS 12.55.135(q), enacted by sec. 22 of this Act;
- 7 (6) AS 12.55.185(10), as amended by sec. 23 of this Act;
- 8 (7) AS 12.55.185(16), as amended by sec. 24 of this Act;
- 9 (8) AS 12.62.900(23), as amended by sec. 25 of this Act.

10 (c) AS 12.63.100(7), as amended by sec. 26 of this Act, applies to the duty to register
11 as a sex offender for offenses committed on or after the effective date of this Act.

12 (d) AS 12.74.010 - 12.74.050, enacted by sec. 27 of this Act, applies to petitions filed
13 on or after the effective date of this Act for conduct occurring before, on, or after the effective
14 date of this Act.

15 * **Sec. 38.** This Act takes effect July 1, 2022.